

## REMARKS

The present application was filed on July 31, 2000 with claims 1-25. Claims 1-25 are currently pending in the application. Claims 1 and 23-25 are the independent claims.

The specification has been amended to address the informalities noted by the Examiner. It is believed that the amendments to the specification also overcome the objection to the drawings. Formal drawings are submitted concurrently herewith, and approval and entry of said formal drawings is respectfully requested.

Applicants note that, although the Examiner has returned an initialed copy of the second PTO-1449 form filed with their Supplemental Information Disclosure Statement on December 27, 2001, the Examiner has not returned an initialed copy of the first PTO-1449 form originally filed with the present application on July 31, 2000. Another copy of the first PTO-1449 form is attached hereto. Applicants respectfully request that an initialed copy of the first PTO-1449 form be returned to Applicants in the next Office communication.

In the Office Action, claims 1-4, 8, 9 and 23-25 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,561,841 (hereinafter "Markus"), each of claims 5, 6 and 7 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Markus in combination with another reference, and claims 10-22 are indicated as containing allowable subject matter.

Applicants respectfully traverse the §102(b) and §103(a) rejections. Applicants respectfully request reconsideration of the present application in view of the following remarks.

With regard to the §102(b) rejection, Applicants note that the Manual of Patent Examining Procedure (MPEP), Eight Edition, August 2001, §2131, specifies that a given claim is anticipated "only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference," citing Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, MPEP §2131 indicates that the cited reference must show the "identical invention . . . in as complete detail as is contained in the . . . claim," citing Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). For the reasons identified below, Applicants submit that the Examiner has failed to establish anticipation of at least independent claims 1 and 23-25 by the Markus reference.

Independent claim 1 is directed to a processor-implemented method for providing a desired level of performance for a wireless network. The method includes the steps of applying an optimization process to a set of information characterizing the network, the optimization process comprising at least a pre-frequency-assignment optimization stage, the pre-frequency-assignment optimization stage being applied prior to assignment of frequencies to one or more communication channels of the wireless network, and utilizing an output of the optimization process to determine at least one operating parameter of the wireless network.

The Examiner argues that Markus meets the above-noted limitations, relying on the teachings in column 5, lines 63-65, and column 11, lines 13-17 and 29-33. Applicants respectfully disagree. The first of the portions of Markus relied upon by the Examiner provides as follows, with emphasis supplied:

The operator positions the network elements, primarily base stations BS, at desired locations on the digital map, and determines their antenna location, antenna power, antenna direction and frequency allocation. The object is to attempt to find optimal locations and parameters for the base stations, so that the coverages of the base stations cover the desired area completely with appropriate overlapping.

This aspect of Markus relates to a process that is referred to therein as “coverage planning.” This process is distinct from frequency assignment, which in the Markus arrangements occurs in a stage referred to as “frequency planning.” As Markus notes in column 1, lines 13-15:

Cellular radio network planning can be divided into coverage, frequency, capacity, parameter and transmission planning.

Markus describes frequency planning and capacity planning in more detail at, for example, column 5, line 67 to column 6, line 7. The primary object of the Markus arrangements is to facilitate parameter planning after frequency assignment is complete. This is apparent from, for example, the discussion of parameter planning in column 1, lines 31-67.

As indicated above, the Examiner also relies on the teachings in column 11, lines 13-17 and 29-33 of Markus as allegedly disclosing the claimed pre-frequency-assignment optimization stage. However, this portion of Markus is described in column 11, lines 11-12, with emphasis supplied, as disclosing “optimizing applications [that] represent the most advanced level of further processing software.” Such “further processing software” of Markus is more specifically described as follows at column 9, lines 47-55, with emphasis supplied:

Even though it is also possible in the system according to the invention to realize follow-up during the simulation, the actual utility applications of the simulation are accomplished by post-processing the event statistics stored in the database 6. The aim is to screen-out relevant information, which can be performed by post-processing programs illustrated by the block 8 in FIG. 1. They can be classified according to their degree of advancement, as follows: graphics applications, analysing applications, and optimizing applications.

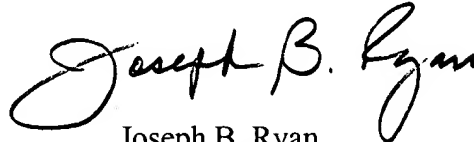
Thus, the optimizing applications referred to in column 11, lines 13-17 and 29-33 of Markus, and relied upon by the Examiner in formulating the anticipation rejection, are clearly a type of post-processing program corresponding to block 8 in FIG. 1 of Markus. Since these post-processing programs are applied after assignment of frequencies to communication channels of the system, they cannot reasonably be characterized as anticipating the claimed pre-frequency-assignment optimization stage of claim 1.

Since Markus fails to teach or suggest each and every limitation of independent claim 1, this claim is not anticipated by Markus. Independent claims 23-25 include limitations that are similarly not met by the teachings of Markus, and are believed allowable for substantially the same reasons identified above with regard to claim 1.

Dependent claims 2-9 are believed allowable at least by virtue of their dependence from independent claim 1. One or more of these claims are also believed to define additional separately-patentable subject matter relative to Markus and the other art of record.

In view of the above, Applicants believe that claims 1-25 are in condition for allowance, and respectfully request withdrawal of the §102(b) and §103(a) rejections.

Respectfully submitted,

A handwritten signature in black ink that reads "Joseph B. Ryan". The signature is written in a cursive style with a large, stylized "J" and "R".

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